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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                             | CONFIRMATION NO.                          |
|--|-------------|----------------------|---|---|
| 10/521,087   | 01/13/2005  | Jeffrey A. Seder     | EQB-0034  | 4504                                      |
| <div>7590      06/27/2007</div> <div>Steven J. Rocci<br/>WOODCOCK WASHBURN LLP<br/>46th Floor<br/>One Liberty Place<br/>Philadelphia, PA 19103</div> |             |                      | <div>EXAMINER</div> <div>PARSLEY, DAVID J</div> |   |
|  |             |                      | <div>ART UNIT</div> <div>3643</div>             | <div>PAPER NUMBER</div>                   |
|  |             |                      | <div>MAIL DATE</div> <div>06/27/2007</div>      | <div>DELIVERY MODE</div> <div>PAPER</div> |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                               |                                   |  |
|------------------------------|-------------------------------|-----------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/521,087 | Applicant(s)<br>SEDER, JEFFREY A. |  |
|                              | Examiner<br>David J. Parsley  | Art Unit<br>3643                  |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1-13-05.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species A – measurement of septal wall

Species B – measurement of spleen

Species C – measurement of left ventricle

Species D – classifying horses according to their racing abilities

Species E – rating heart images based on left ventricle properties

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP

§ 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Species A – claims 1-23 and 28

Species B – claims 24-27

Species C – claim 29

Species D – claims 30-31

Species E – claim 32

The following claim(s) are generic: no claims are generic.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species A has a special technical feature being obtaining a measurement of the width of the ventricular septal wall of the racehorse candidate which is different than the special technical feature of Species B which is obtaining a measurement of the cross-sectional area of the spleen of the racehorse candidate. Species A has a special technical feature being obtaining a measurement of the width of the ventricular septal wall of the racehorse candidate which is different than the special technical feature of Species C which is obtaining a measurement of the cross-sectional area of the left ventricle in systole, the cross-sectional area of the left ventricle is diastole, or the percent change in ventricular area per stroke of the racehorse candidate and obtaining a measurement of the height and weight of the racehorse candidate. Species A has a special technical feature being obtaining a measurement of the width of the ventricular septal wall of the racehorse candidate which is different than the special technical feature of Species D which is classifying the horses according to their racing abilities. Species A has a special technical feature being obtaining a measurement of the width of the ventricular septal wall of the racehorse candidate which is different than the special technical feature of Species E which is rating the image according to at least one cardiac parameter selected from the group consisting of the general shape of the heart at diastole and systole, the clarity and sharpness of contrast of left ventricle during diastole and systole, the smoothness of the left ventricle during diastole and systole, blood backflow from the left ventricle during diastole and systole, valve closure, and clarity of the image in diastole. Species B has a special technical feature being obtaining a measurement of the cross-sectional area of the spleen of the racehorse candidate which is different than the special technical feature of Species C which is obtaining a measurement of the cross-sectional area of the left ventricle in systole, the cross-sectional area of the left ventricle is diastole, or the percent change in ventricular area per stroke of the racehorse candidate and obtaining a measurement of the height and weight of the racehorse candidate. Species B has a special technical feature being obtaining a measurement of the cross-sectional area of the spleen of the racehorse candidate which is different than the special technical feature of Species D which is classifying the horses according to their racing abilities. Species B has a special technical feature being obtaining a measurement of the cross-sectional area of the spleen

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of the racehorse candidate which is different than the special technical feature of Species E which is rating the image according to at least one cardiac parameter selected from the group consisting of the general shape of the heart at diastole and systole, the clarity and sharpness of contrast of left ventricle during diastole and systole, the smoothness of the left ventricle during diastole and systole, blood backflow from the left ventricle during diastole and systole, valve closure, and clarity of the image in diastole. Species C has a special technical feature being obtaining a measurement of the cross-sectional area of the left ventricle in systole, the cross-sectional area of the left ventricle in diastole, or the percent change in ventricular area per stroke of the racehorse candidate and obtaining a measurement of the height and weight of the racehorse candidate which is different than the special technical feature of Species D which is classifying the horses according to their racing abilities. Species C has a special technical feature being obtaining a measurement of the cross-sectional area of the left ventricle in systole, the cross-sectional area of the left ventricle in diastole, or the percent change in ventricular area per stroke of the racehorse candidate and obtaining a measurement of the height and weight of the racehorse candidate which is different than the special technical feature of Species E which is rating the image according to at least one cardiac parameter selected from the group consisting of the general shape of the heart at diastole and systole, the clarity and sharpness of contrast of left ventricle during diastole and systole, the smoothness of the left ventricle during diastole and systole, blood backflow from the left ventricle during diastole and systole, valve closure, and clarity of the image in diastole. Species D has a special technical feature being classifying the horses according to their racing abilities which is different than the special technical feature of Species E which is rating the image according to at least one cardiac parameter selected from the group consisting of the general shape of the heart at diastole and systole, the clarity and sharpness of contrast of left ventricle during diastole and systole, the smoothness of the left ventricle during diastole and systole, blood backflow from the left ventricle during diastole and systole, valve closure, and clarity of the image in diastole.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley  
Primary Examiner  
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